



Common Order Below Exh. 3 & 13
(Dated 26/10/2023)

- 1) The application at exh. 3 is filed by the applicant Akash @ Ganesh Tryambak Jirvankar, under section 439 of Cr. P. C., through his advocate and application at exh. 13 has been sent by him through jail for releasing him on bail in Crime No. 313/2023 of Washim (city) Police Station (ST No. 57/2023) for the offence punishable under section 302 r/w section 34 of the Indian Penal Code.
- 2) The prosecution case, in short, is that on 08/05/2023 the first informant Arun Vasantrao Kothekar lodged the report in police station, Washim (city), alleging therein that, on that day his son Akash Kothekar was present at his Kirana Shop, that he went to Kothekar Wadi in the afternoon and thereafter he left the said place. At about 5.30 pm to 6.00 pm, when he was present at his Kirana shop, one Shankar Shejul, who is friend of his son Akash, informed him that the quarrel between Akash and accused Akash Jirvankar was going on. Thereafter, he went to that place on the motorcycle with said Shankar, he found that his son was lying there in the pool of blood. It is further alleged that there was quarrel between his son and the accused/applicant on money transactions and for that reason the accused/applicant has assaulted and killed his son Akash by causing serious injury by sharp weapon. Hence, he lodged the report.
- 3) On the basis of above said allegations, the offence vide Crime No. 313/2023 in Washim (city) Police Station was registered for the aforesaid section against the accused and the charge-sheet has been filed. Applicant/accused was arrested on 09/05/2023 and since then he is in jail.

4) Read the application, the objection filed by the first informant and say filed by the prosecution. Heard learned advocate for the applicant/accused and learned APP for the State assisted by the learned advocate appointed by the first informant.

5) Following points arise for my determination, which carry my findings thereon as follows -

Sr. No.	Points	Findings
1.	Whether the applicant/accused has made out the case for grant of bail, as prayed ?	In the Negative.
2.	What order ?	As per final order.

REASONS

As to Points No. 1 & 2 -

6) Learned advocate for the applicant/accused has submitted that the previous bail application no. 276/2023 was rejected before filing the charge-sheet. Now, the investigation has been completed, that the charge-sheet has been filed. Hence, there is change in circumstances for filing the subsequent bail application. It is further submitted that there are major contradictions about the timing in the report and the statements of the witnesses, that there is no eye witness to the incident, that the first informant is a very influential person, that he has got manipulated the medical report, that he has also pressurized the police, that the eye witnesses are interested as they are close relatives of the deceased, that the postmortem report is also manipulated, that there is no motive or intention on the part of the applicant/accused. On all these grounds, it is submitted that the application be allowed.



7) Learned APP for the State has submitted that the previous bail application no. 276/2023 has already been rejected on merits, that there is no change in circumstances except filing of the charge-sheet, that there are eye witnesses to the incident, that there are allegations that there were disputes between the deceased and the applicant/accused on money transactions. Hence, there was motive on the part of the applicant/accused. It is further submitted that there is prima facie case made out against the applicant/accused, that there is witness regarding extra judicial confession made by the accused/applicant, that there are criminal antecedents to his discredit. On all these grounds, it is submitted that the application be rejected.

8) I have gone through the allegations in the FIR. It is seen that the deceased Akash Kothekar was having quarrel with the accused/applicant on money transactions, that he was lastly seen in the company of the accused/applicant, that the friend of said deceased has given information to the first informant about the quarrel between deceased and the accused persons, that there was previous quarrel between the accused persons and the deceased, that the deceased Akash was continuously demanding money from the applicant/accused and there was quarrel between them on money transactions. It appears that the offence is of serious nature. There are specific allegations against the applicant/accused, that serious injuries have been sustained by the deceased.

9) Though filing of the charge-sheet is change in circumstances, but it appears that the material available against the accused/applicant at the time of deciding the previous bail application is one and the same. The specific role has been attributed to the applicant/accused. Therefore,

merely by filing the charge-sheet, it can not be said that the accused/applicant is entitled to be released on bail. It is to be noted that at the time of deciding the previous bail application, the merits of the case were taken into consideration and the previous bail application has been rejected on merits.

10) Though the learned advocate for the applicant/accused has submitted that there are contradictions about the timing in the FIR and statements of the witnesses, that the first informant is a influential person, that he got manipulated the postmortem report, that eye witnesses are interested witnesses, that they are close relatives of the deceased, that there was no motive or intention on the part of the applicant/accused, however, it is to be noted that all the above said facts can be taken into consideration at the time of final adjudication and not at the time of deciding of bail application. At this juncture, on the basis of material placed before me, it appears that there is prima facie case made out against the applicant/accused. Hence, the applicant/accused is not found entitled to be released on bail. Accordingly, I answer point no. 1 in the negative and proceed to pass the following order -

ORDER

Both the applications at exh. 3 and 13 for bail are rejected.

Washim.
Date: 26/10/2023.

Sd/-
(Rajeev P. Pande)
Sessions Judge, Washim.



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Sessions Trial No. 57/2023
State ..Vs.. Akash @ Ganesh and anr.
CNR No. MHWS010011112023

CERTIFICATE

I affirm that the contents of this P.D.F. file Judgment/ Order are same word to word, as per the original judgment/order.

Name of Stenographer :- A. W. Ajmire, Stenographer (Grade-II)

Name of Court :- Principal District & Sessions Judge,
Washim, Dist. Washim.

Date of Judgment/ Order :- 26/10/2023

Judgment/Order signed by :- 26/10/2023
the Presiding Officer on

Judgment/Order uploaded on :- 27/10/2023